

“SOC”) to the CLEC and then to change the information in SBC’s billing systems so that the end-user is recognized as having moved from SBC to the CLEC. This is known as “posting,” and delays may occur both before and after the SOC is generated. Timely and accurate order completion notices are important, as they are the means by which the CLEC knows to begin billing the end-user and addressing any maintenance problems experienced by the end-user.¹¹³

SBC, however, has been returning late SOCs for UNE-loop via LEX from May through December 1999.¹¹⁴ In addition to the late SOCs, UNE-loop CLECs have also experienced late posting of their orders to SBC’s billing system, which SBC acknowledges, stating that it has discovered an error in the rate table that caused posting delays in UNE orders.¹¹⁵ SBC asserts

¹¹³ *FCC New York Order* ¶ 187.

¹¹⁴ SBC reports Percent Mechanized Completions Returned Within One Day of Work Completion, PM 7.1. This is a measure of the timeliness of completion notices and does not reflect the size or age of any backlog of pending SOCs. SBC’s data show that SOCs returned via LEX have been returned late from May through December 1999, with only 87% being returned within one day of work completion in December. SBC 1999 Aggregated Performance Data, Measurement No. 7.1, at 271-No. 7.1. SBC reports that SOCs returned via EDI have been timely, in accordance with the Texas PUC’s 24-hour benchmark. *Id.*

In addition, CLECs have presented data showing that a number of SOCs have been delayed not just for 24 hours, but for days and weeks, and that for some orders, SOCs have never been returned at all. *See* ICG Rowling Aff. ¶ 37 (referencing attachment that lists missing SOCs); AT&T Dalton/DeYoung Decl. ¶¶ 178-180 (The November reconciliation of CHC data revealed orders installed in the first week in August for which SOCs had not been sent.).

¹¹⁵ SBC Dysart Aff. ¶ 521. SBC asserts that this rate table error is an underlying cause of its repeated miss on the Billing Completeness measure (PM 17), which indicates the percentage of service orders completed within the billing cycle that post in the billing system prior to the customer’s bill period. SBC adds that its performance on this measure, although below parity, is near perfect, at 98%, and has not inhibited the CLECs’ ability to compete. *Id.* ¶ 19. SBC’s performance on this measure, however, is merely an indicator of the problem but may not reflect its entire magnitude because it is a measure of the timeliness of *posted* service orders and does not measure the size or age of any backlog of *unposted* service orders. Moreover,

that it has a specialized Error Resolution Team (“ERT”) “focused solely on clearing errors on orders that have been completed, but for some reason cannot post for proper billing,” and is making “concentrated efforts to reduce the clearing time for errors to post to the bill.”¹¹⁶

Meanwhile, however, UNE-loop CLECs must deal with the apparent manifestations of these posting delays, including double-billing of end-users and the loss of directory listings.¹¹⁷

2. Order Processing Problems Adversely Impact CLECs.

Order processing problems such as these can adversely affect the ability of CLECs to compete effectively. First, lateness or inaccuracy in order status notices requires CLECs to spend extra time and money attempting to confirm (or revise) schedules with SBC and with their

posting delays for a particular order may be resolved within the bill period even after some end-user-affecting event has occurred.

See also AT&T DeYoung Hot Cuts Decl. ¶¶ 188-190 (AT&T analyzed its own raw data and concluded that 23% of its 8 dB loop orders had experienced posting delays greater than five days with the longest delay being 17 days; 34% of its 5 dB loops experienced posting delays greater than five days with the longest delay being 48 days. A December reconciliation meeting between AT&T and SBC referenced orders from September still sitting unposted.).

¹¹⁶ SBC Conway Aff. ¶¶ 55, 56.

¹¹⁷ *See* Nextlink Smith Aff. ¶ 5 (Since Nextlink began tracking the problem in November 1999, 12 customers receiving service from Nextlink have continued to receive bills from SBC. Two of these erroneously billed end-users were sent to collections by SBC, indicating that the problem had been ongoing for some time.); Nextlink Draper Aff., Attach. C (quantifying time and money spent to minimize the effect of double-billing and dropped directory listings on Nextlink’s end-user customers); ICG Rowling Aff. ¶ 34 (ICG end-users have had their directory listings drop from SBC’s directory assistance database.); AT&T DeYoung Hot Cuts Decl. ¶¶ 193-196 (documenting SBC continuing to bill even after customers have been converted to AT&T; end-user customers often blame AT&T for the billing confusion, damaging AT&T’s reputation.).

customers.¹¹⁸ Second, problems in processing orders may lead to problems in provisioning, though we lack sufficient information to know whether the order processing problems described here are currently a major factor in the provisioning problems that have been experienced in Texas. If a CHC order is held in error in the LSC, the central office technicians may not get the order in time to perform the pre-cut test procedures that are supposed to minimize the instances of outages upon provisioning. Similarly, if a supplemental order (for instance, a CLEC postponing a due date at the request of the end user) is not promptly processed, SBC may perform an FDT cut prematurely, before the CLEC -- having timely submitted its supplemental order -- has done its necessary work to complete the cutover in service.¹¹⁹

Our concern about those problems arises principally because of their appearance at the relatively low volumes of orders that CLECs have generated to date, and because the processing problems appear to be growing with even a modest trend of increasing order volume. These facts, combined with SBC's attribution of the problem to factors associated with manual processing, indicate a risk that the problems may significantly increase in magnitude as manually handled UNE-loop volumes increase.¹²⁰ SBC's UNE-loop order processing performance thus

¹¹⁸ Telcordia documented late and inaccurate FOC returns. Telcordia Final Report at 54 & Attach. A at A-44 to A-45 (UL-RT-O5). CLEC comments indicate that these problems are continuing. Nextlink Draper Aff. ¶¶ 31-38; Nextlink Barron Aff. ¶ 12 (stating a high rate of FOCs are placed in jeopardy status and returned to Nextlink at a later date).

¹¹⁹ See AT&T DeYoung Hot Cuts Decl. ¶ 43.

¹²⁰ SBC recognizes that it has had problems scaling its manual processes, explaining that it has reorganized and retrained LSC representatives in an effort to "meet the growing demand for FOC." SBC Dysart Aff. ¶ 598 (specifically discussing below-benchmark performance on return of FOCs for LNP via EDI). SBC admits these adjustments to its manual

appears quite different from Bell Atlantic's performance in New York. There, the FCC found (1) timely return of order confirmations and rejects, (2) accurate processing of manually handled orders, and (3) successfully scaling systems so that performance (although below the benchmark levels set by the New York PSC) had improved even as volumes had risen.¹²¹ Here, SBC's performance in the face of increasing volume is deteriorating.¹²²

V. Facilities-Based Entry: SBC Does Not Provide Non-Discriminatory Interconnection Trunking to Its Competitors.

A CLEC in Texas that wishes to provide local telephone service over its own facilities must interconnect its network with SBC's so that telephone calls can be exchanged between the CLEC's subscribers and SBC's subscribers. The ability to obtain interconnection trunks on a reasonable and timely basis is critically important to facilities-based CLECs as they seek to maintain service quality while their subscriber base, and hence their need for interconnection

processes impacted the results for September and October, but expected that "the overall long-term benefits will be seen in future months performance measures." *Id.* In fact, SBC's EDI performance for LNP-with-loop (1-19) declined still further in November, during which only 59.8% of the 378 FOCs were timely returned via EDI. In December, 77% of 560 FOCs were timely returned via EDI. SBC 1999 Aggregated Performance Data, Measurement No. 94 ("Percent FOCs Received Within 'X' Hours") ("Residence and Simple Loop, 1-19") at 271-No. 94c. SBC's LEX performance for LNP-with-loop (1-19), however, did improve slightly, so that in November, 91.5% of 1357 FOCs were timely returned via LEX. In December, 93.2% of 1269 FOCs were timely returned via LEX. *Id.* at 271-No. 94a. SBC does not appear to report an average return time for LNP FOCs.

¹²¹ *FCC New York Order* ¶ 177.

¹²² The trend in SBC's reported data is thus more important than the overall level of performance that SBC reports. This is so partly because volumes involved are still low. Moreover, as noted above, some CLECs have documented that SBC is overstating its performance on FOC return times. The record contains no reconciled data on this point.

trunks, increases. The record in this proceeding raises substantial doubt that SBC is providing interconnection trunks in a manner that permits CLECs to compete to their full potential.

Facilities-based CLECs have identified, in Texas PUC proceedings and again in their comments on this application, a variety of serious problems that occurred throughout 1999. These CLECs have indicated that they have been unable to obtain from SBC the number of interconnection trunks they need, in the time frames that they require, despite having followed the required forecasting and network planning processes. They indicate that SBC limited the number of trunks that a CLEC could order; refused to allow CLECs to increase their existing trunk facilities;¹²³ extended by months the time it takes to process CLEC trunk orders;¹²⁴ and missed the installation due dates that were eventually assigned.¹²⁵ These limitations and delays

¹²³ See Time Warner Reeves Aff. ¶ 17 (“For most of [1999] TWTC [Time Warner] requested additional tandem trunks to ensure that the exchange of traffic would not be blocked due to a lack of adequate facilities to the SWBT end offices. SWBT denied the majority of these requests.”); see also e.spire Wong Aff. ¶ 14 (“Even in instances where e.spire has demonstrated that it is experiencing blockage and an inability to serve new customers, e.spire is given only a fraction of the capacity that it has requested.”).

¹²⁴ The Texas PUC established a benchmark of 20 business days for trunk installation. SBC’s Service Planning process adds a month or more to the time necessary to obtain trunks, although this part of the trunk ordering process is not tracked or reported in SBC’s performance metrics. CapRock Thompson Aff. ¶¶ 10-12; NTS Elliott Aff. ¶¶ 11, 14-15. SBC’s failure to timely confirm a trunk service order can effectively add more unrecorded time to the provisioning interval, as a CLEC must then resubmit (supplement) its trunk order to investigate the cause of the missed FOC. NTS Elliott Aff. ¶ 13. This would cause the initial order to be excluded from the metrics covering installation intervals and missed due dates. See SBC Dec. 15, 1999 Conway Aff. ¶¶ 4, 10 (“Unless requested by the customer, LSC representatives have been instructed not to cancel orders (with the exception of rejected LSRs) and request a supplement as a means to extend the due date.”).

¹²⁵ SBC 1999 Disaggregated Performance Data, Measurement No. 73 (Percent Missed Due Dates) (Houston) at 271-No. 73; SBC Dysart Aff. ¶ 557.

appear to have occurred in all areas of the state -- not only in the technologically sophisticated markets of Houston¹²⁶ and Dallas/Fort Worth,¹²⁷ but also smaller cities such as Amarillo.¹²⁸ The CLECs contend that these problems limited their ability to adequately serve their existing customers and to expand their service to new customers. In some cases, these problems have resulted in call blocking on the CLECs' networks,¹²⁹ customer complaints and lost or forgone sales.¹³⁰

¹²⁶ In Houston, SBC limited the number of trunks Time Warner could install. In addition, SBC informed Time Warner that one specific tandem was "capped" and that Time Warner could obtain no more trunks there. After Texas PUC staff began investigating the problem, SBC personnel admitted that the tandem had additional capacity, but SBC was trying to require Time Warner to implement end office trunking. Time Warner Summitt Aff. ¶¶ 16-18; Time Warner Reeves Aff. ¶ 27.

¹²⁷ In Dallas, e.spire started the ordering process for trunks in September 1999. SBC did not schedule trunk delivery until December 1999. e.spire asserts that this particular delay is typical of those in its various Texas markets. e.spire Wong Aff. ¶¶ 8-10.

¹²⁸ All of NTS Communications' December 1999 trunk orders in Amarillo were held for lack of facilities. NTS Elliott Aff. ¶ 16. CapRock Communications has experienced delays in obtaining interconnection trunks in its markets. CapRock Thompson Aff. ¶¶ 8-17.

¹²⁹ Time Warner Reeves Aff. ¶ 26. ("TWTC Houston experienced significant blocking from July through October 1999. For over five continuous weeks blocking occurred on TWTC's trunks every day.") e.spire also experienced blockage. See e.spire Wong Aff. ¶¶ 12, 14 (SBC refused to share the necessary network information to assist in planning to alleviate the blockage and limited trunk increases necessary to alleviate blockage.).

¹³⁰ Time Warner Summitt Aff. ¶¶ 12-13 (Time Warner estimates it lost over \$2 million in annual revenues due to its inability to obtain interconnection trunks. More than eight subscribers complained to Time Warner that the blocking damaged their businesses; one of Time Warner's existing customers sent its additional business to another CLEC; Time Warner turned away four other customers for fear of overloading its network during the time it could not obtain additional interconnection trunks from SBC.); see also e.spire Wong Aff. ¶¶ 11, 14 (SBC's actions "limit e.spire's ability to sign up new customers, and expand capacity for existing customers.").

In this proceeding, SBC has submitted performance data from 1999 which appear largely, although not entirely, compliant with the relevant parity and benchmark standards.¹³¹ These performance reports, however, do not refute the complaints of the CLECs. If a CLEC failed to submit an order because of limitations imposed by SBC, that limitation is not reflected in the performance reports, which capture performance only if an order is placed. Similarly, as the Texas PUC learned in November, 1999, orders that *were* placed but were not processed due to SBC's lack of facilities are excluded from the reported data.¹³² Because of these omissions, the reported data do not provide a reliable indication of SBC's actual performance.¹³³

¹³¹ In its evaluation, the Texas PUC pointed out a number of deficiencies of performance in prior months, including more trunk blockage than allowed by the Texas PUC standard (SBC's reported trunk blockage, disaggregated by region, was in excess of the Texas PUC's benchmark in some regions for some months, Texas PUC Evaluation at 14 n.51) and more missed due dates for delivering trunks to CLECs than to SBC itself (performance in the Houston area was out of parity for September and October). *Id.* at 15.

¹³² *Id.* at 6-7, 15 & n.55. ("[T]he Texas Commission became concerned that the data as collected was not accurately reflecting CLECs' ability to obtain interconnection trunks in a timely manner because SWBT was not capturing data on 'held orders,'" which are "orders that SWBT does not process due to lack of interconnection facilities."). The same effect occurs if CLECs place orders with extended due dates as a result of SBC advising them of a lack of facilities, as these orders will be excluded from PM 78.

¹³³ We believe it would be prudent for the Commission to require additional evidence that the currently-reported data are accurate, before placing any reliance on that data. Until October 1999, SBC's performance reports reflected excessive amounts of trunk blockage as well as excessively lengthy average installation intervals, which appeared to be well over the Texas PUC's 20-business-day benchmark, and extended, at the extreme, to over 60 days. In response to the Texas PUC's expression of concern at its November 4, 1999 Open Meeting, SBC re-analyzed its data and belatedly determined that it had neglected to apply some permitted exclusions. SBC Dysart Aff. ¶ 549. SBC recast its trunking performance data and submitted the new data to the Texas PUC on December 15, 1999. SBC has described the reasons for the late-taken exclusions in general terms, including computer programming error, inconsistent application of business rules, and the immaturity of the performance measurement process, as well as asserted CLEC-

In late 1999, the Texas PUC intervened to address the reported problems associated with interconnection trunking. After learning that SBC was excluding “held orders” from its performance reports, the Texas PUC required SBC to implement a new measure specifically to capture the percentage of held orders greater than 90 days. The new measure, PM 73.1, will be finalized at the April 2000 six-month review, and January data under this measure will first be made available in late February 2000. Texas PUC Commissioners stressed that CLECs should maintain their forecasts and place trunk orders -- regardless of any countering SBC suggestion -- so that the complained-of problems would be clearly captured in the new performance data.¹³⁴ SBC agreed to improve its trunk forecasting, data collection, data calculation and ordering processes. SBC has also committed to publish new training materials on February 15, 2000, to provide additional training of its personnel by March 1, 2000, and to mechanize its Trunk Group Service Request process by May 15, 2000 (and retrain its trunk group personnel in the interim).¹³⁵

caused misses. *See* SBC Dec. 15, 1999 Conway Aff. ¶¶ 3-4; SBC Dec. 15, 1999 Dysart Aff. ¶ 4; SBC Dec. 15, 1999 Leathers Aff. ¶ 24; *see also* Time Warner Reeves Aff. ¶¶ 26-27 (SBC has not provided enough detail for Time Warner to be able to verify the accuracy of its exclusions.). The acknowledged problems of inaccurate tracking and reporting of data for this and other measures suggest that more careful scrutiny would be appropriate.

¹³⁴ *See* Dec. 16, 1999 Open Meeting Tr. at 29-31.

¹³⁵ SBC Dec. 15, 1999 Leathers Aff. ¶¶ 12, 26; *see also id.* ¶ 19 (In reviewing the data, SBC discovered a gap in its data collection, so that data included in the preliminary report were omitted from the detail report; this gap will be closed by a correction to the data gathering program.).

The Texas Commission has concluded that these changes “should result in parity performance to competitors” that should permit SBC to timely install CLEC trunks.¹³⁶ Unfortunately, though, the trunking problems have been difficult to resolve in the past, and there is no assurance that the most recent efforts will succeed.¹³⁷ While we are hopeful that the admirable efforts of the Texas PUC will resolve the difficulties of the interconnection forecasting, ordering and provisioning process, SBC should be held to a standard of demonstrated success, rather than optimistic prediction.

VI. SBC’s Wholesale Performance in Providing Competitors With the UNE-Platform

Commenters in this proceeding have complained of a variety of performance problems that may affect the ability of CLECs to compete effectively through the use of the UNE-platform.¹³⁸ These complaints include weaknesses in the documentation that SBC provides for its EDI interfaces; SBC’s failure to adhere to its documented change management process; the absence of a stable testing environment for new interfaces; and concerns about the scalability of

¹³⁶ Texas PUC Evaluation at 15; SBC Dysart Aff. ¶ 557 (describing further process changes that will address all issues).

¹³⁷ An industry trunking forum was established in response to CLEC complaints about trunk blockage, and that forum has been meeting regularly since January 1999. Texas PUC Evaluation at 11-12, 14; SBC Deere Aff. ¶ 50. As noted above, however, SBC was still reporting disparate and inadequate trunk performance on key measures through September 1999, when the Texas PUC staff presented its November 2 Performance Measures Evaluation. Given this history, it is clearly premature to assume that these latest process improvements -- no matter how promising on paper -- will in fact resolve the pervasive problems which have been both alleged and observed.

¹³⁸ In addition to performance problems, objections have been raised as to the legality of the non-recurring charges which SBC assesses in connection with UNE-platform orders. We leave that issue for the Commission’s judgment.

SBC's systems that might impede competitors' ability to operate at full volumes for mass-market services. It seems clear that SBC's performance in these areas has been flawed in a number of respects, but it is unclear to the Department at this time how significant those shortcomings have been, or more importantly, the extent to which they may seriously impede competition in the future.

There have also been disturbing allegations of service outages, such as the loss of dial tone, an inability to make outbound calls and the loss of features such as hunt groups or preferred long distance or local toll provider, at the time a customer's service is converted to UNE-platform service. Most of the CLECs using the UNE-platform in Texas affirm that some of their customers suffer from the service problems identified above at the time of conversion to the UNE-platform. Two smaller CLECs, Birch and CapRock describe but do not quantify, the problem.¹³⁹ AT&T avers that at current order volumes, three percent of its lines are affected by these service problems, while Network Intelligence, a small CLEC avers that 14 percent of its orders are affected.¹⁴⁰ Birch, which has been experiencing conversion problems since July 1999, did not begin to see any improvement until it filed a complaint with the Texas PUC in September.

¹³⁹ Birch Tidwell & Kettler Aff. ¶¶ 13, 63-64, 81, 90; CapRock Thompson Aff. ¶¶ 24-29.

¹⁴⁰ AT&T Dalton/DeYoung Decl. (3% of UNE-platform conversions from August to November 1999); Network Intelligence Burk Aff. ¶ 22 (14% of 620 orders, representing 3200 access lines, from May to December 1999).

With the involvement of the Texas PUC, SBC committed to manually monitor the problem and began weekly meetings with Birch, which are still ongoing, to deal with this and other issues. The problem, however, continues to persist for Birch.¹⁴¹ The magnitude of the conversion problems may have increased recently; SBC's User Forum minutes from December 1999 state that all CLECs have "experienced a notable increase in these outages during the past several weeks."¹⁴² This time period coincides with rising sales of UNE-platform lines and SBC's decreasing performance on manual rejects of electronically submitted orders.

SBC's process for controlling this problem, as we understand it, is to manually monitor the service orders in its back-end systems to ensure that they complete properly. Hence, there is a risk that if order volumes significantly increase, the scope of these problems may become disproportionately greater. If UNE-platform service providers attract new customers at a rate of one million lines per year, a three percent problem rate (i.e., the rate now reported by AT&T) would generate 30,000 customer problems per year or 2500 problems per month, a rate that may impose heavy demands on SBC's maintenance systems and harm CLECs' reputation in the marketplace.

We regard these service outages as a very serious potential problem, but it is unclear to us at this time the magnitude of the current problem or how likely it is to increase. There is evidence in the record that suggests that these problems are significant and may become more so

¹⁴¹ Birch Tidwell/Kettler Aff. ¶ 13 & Attach. K.

¹⁴² Accessible Letter CLEC00-001, Final Minutes for December 7, 1999 CLEC User Forum 7 (Jan. 3, 2000), attached to AT&T DeYoung Aff. as Attach. 17.

in the future as order volumes increase, but both that evidence, as well as SBC's response to it, have been inconclusive in our view. Moreover, the record remains unclear as to the precise causes of the outages.

We are also concerned about the extensive amount of manual work required to process current volumes of UNE-platform orders through SBC's order processing center.¹⁴³ Current experience in New York shows that at high order volumes, systems problems that increase the manual work in the order processing center make it more difficult to timely confirm or reject manually processed orders.¹⁴⁴

We believe that additional commercial experience which would be outside the scope of this application may provide valuable evidence that will clarify whether the service outages, and the other concerns noted above, will in fact operate as a serious constraint on competition using the UNE-platform, or whether, as SBC contends, these problems are minor or non-existent. Since we believe that this application should be denied for wholly independent reasons, we

¹⁴³ See SWBT Local Service Center 1999 Force Model, *Ex Parte* Submission to the FCC (Confidential Version), CC Docket No. 00-4 (Feb. 8, 2000).

¹⁴⁴ See *New York PSC Order* at 3 (increasing penalties associated with Bell Atlantic's timeliness order processing metrics, for both manual and flow-through, because CLEC UNE-platform orders are falling out of its normal electronic OSS); DOJ Ex. 4: Letter from Bell Atlantic to New York PSC (describing the amount of manual work necessary to coordinate the handling of this problem with the CLECs). We are aware that Telcordia performed a "staff scalability" analysis of SBC's order processing center work force model. See Telcordia Final Report, Attach. I.1. Our review of that confidential model for November and December, combined with the recent events in New York suggest that Telcordia did not take into account the degree to which systems problems can overwhelm asserted, but not tested, manual processing capabilities.

recommend that the Commission reserve judgment on these issues for a subsequent re-application.

VII. Conclusion

This application should be denied.

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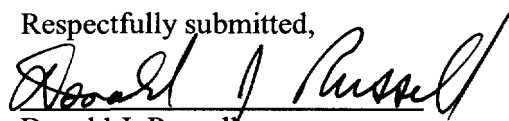
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February 14, 2000

Certificate of Service

I hereby certify that I have caused a true and accurate copy of the foregoing Evaluation of the United States Department of Justice to be served on the persons indicated on the attached service list by first class mail, overnight mail, hand delivery or electronic mail on February 14, 2000.

A handwritten signature in black ink, appearing to read "Katherine E. Brown", is written over a horizontal line.

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EXHIBIT 1

**E-mail from Martin E. Grambow,
Vice President & General Counsel,
SBC Telecommunications, Inc., to
Katherine Brown, Attorney, U.S.
Department of Justice, Habeeb
Affidavit (Feb. 3, 2000)
(with attachment).**

From: Grambow, Martin E (Legal)
To: [REDACTED] katherine.brown [REDACTED]
Date: 2/3/00 2:01pm
Subject: Habeeb Affidavit

> This is in response to your questions about John Habeeb's affidavit.
>
> 1. The number of lines ported comes from the PSOD database. The 448,220
> lines reported is lower than the total number in the database because we
> do not include the following cases:
>
> * Ported numbers where ex-SWBT customers previously served by a CLEC
> return to SWBT (Win-backs)
> * Ported numbers where a customer originally served by a CLEC changes
> to SWBT service.
> * Additionally, approximately 30,000 lines are ported in non-mandatory
> MSAs somewhere in SWBT's 5-state area. These records do not identify the
> state name - since we cannot accurately allocate any of these to Texas we
> do not include them in the count.
>
> 2. Between April 98 and October 99, SWBT-TX increased its retail business
> line count by 148,653. During this same period, CLECs increased their
> resold business line count by 94,306 and their facilities-based business
> line count by 769,559. The total CLEC increase was 863,865. The combined
> SWBT/CLEC increase in business lines was 1,012,518. CLECs account for
> about 85% of the total increase, better than 4 out of 5 during this
> period.
>
> In any given month, the percentage increase from the previous month may
> vary considerably. The change from October 99 to November 99 shows the
> CLECs with better than 90% of the increase. The change from July 99 to
> August 99 shows the CLECs with only 67%.
>
> 3. Please see attached spreadsheet for access lines in Texas, Sep 99
> through Dec 99.
>
>
> <<Lines in SWBT Serving Area-TX.xls>>
>
>
>
>
>
>

DOJ Exhibit 1

Business					
	SWBT Retail	CLEC Lines in SWBT's Serving Area			Total Business Lines in SWBT's Serving Area
		Resale	Facilities-based	Total	
Sep-99	3,488,638	145,851	850,194	996,045	4,484,683
Oct-99	3,492,435	147,956	925,143	1,073,099	4,565,534
Nov-99	3,501,417	150,847	1,011,604	1,162,451	4,663,868
Dec-99	3,504,767	152,593	1,148,173	1,300,766	4,805,533

Residential					
	SWBT Retail	CLEC Lines in SWBT's Serving Area			Total Residential Lines in SWBT's Serving Area
		Resale	Facilities-based	Total	
Sep-99	6,125,295	179,803	60,297	240,100	6,365,395
Oct-99	6,129,444	170,464	73,619	244,083	6,373,527
Nov-99	6,122,919	171,304	74,803	246,107	6,369,026
Dec-99	6,123,952	171,411	82,639	254,050	6,378,002

Total Business and Residential					
	SWBT Retail	CLEC Lines in SWBT's Serving Area			Total Lines in SWBT's Serving Area
		Resale	Facilities-based	Total	
Sep-99	9,613,933	325,654	910,491	1,236,145	10,850,078
Oct-99	9,621,879	318,420	998,762	1,317,182	10,939,061
Nov-99	9,624,336	322,151	1,086,407	1,408,558	11,032,894
Dec-99	9,628,719	324,004	1,230,812	1,554,816	11,183,535

DOJ Exhibit 1, Attachment

EXHIBIT 2

**E-mail from Martin E. Grambow,
Vice President & General Counsel,
SBC Telecommunications, Inc., to
Katherine Brown, Attorney, U.S.
Department of Justice, Line Counts
(Feb. 7, 2000).**

From: Grambow, Martin E (Legal)
To: [REDACTED] "katherine.brown@[REDACTED]"
Date: 2/7/00 4:08pm
Subject: Line Counts

Katherine, the following are the line counts you requested this morning:

As of the end of September, 1999, CLECs had 32,452 UNE loops and 72,733 UNEP lines in service. As of October 8, CLECs had 306,071 interconnection trunks in service.

In addition, you have requested the "12/6/99 CLEC trunk actuals" referred to in paragraph 48 of the Deere affidavit. That number is 347,830.

Please call me if you have any questions.

DOJ Exhibit 2

EXHIBIT 3

**E-mail from Martin E. Grambow,
Vice President & General Counsel,
SBC Telecommunications, Inc., to
Luin Fitch, Attorney, U.S.
Department of Justice, DSL
(Feb. 7, 2000).**

From: Grambow, Martin E (Legal)
To: [REDACTED] ("luin.fitch@swbt.com")
Date: 2/7/00 5:34pm
Subject: DSL

Luin, this is in response to your request for information relative to provisioning DSL capable loops.

1. PM 55.1 You have indicated that both Covad complained that their orders are rejected by SWBT for spectrum management reasons, which must then be supplemented and re-submitted. Further, they alleged that when supplemental orders are submitted, we will only accept the order if they change the due date to one that is outside the normal interval and 15 days after we receive the supplement. The result is that over half of their orders fall outside the normal interval and are not captured in PM 55.1.

Covad is incorrect, it has never been SWBT's policy to require CLECs to select a due date outside the standard interval. Covad raised this issue before the Texas PUC and was advised that they did not have to select a due date outside the standard interval.

If the CLEC requests that a loop meet industry standards for spectrum management -- i.e., a specific PSD -- and there is no loop available that meets the requested PSD, then SWBT will reject the order. The CLEC can then issue a supplement and ask for conditioning, change the PSD, accept the loop "as is," or cancel the order. In the case of a supplement, the CLEC can select a due date within the standard interval.

Today, SWBT also allows the CLEC to order the loop "as is" on the LSR prior to any loop qualification, regardless of whether it will meet the industry standards or not. In such a case, the CLEC can also select the standard interval.

CLECs also can request due dates that are outside the standard interval, which actually frequently occurs.

2. Maintenance and repair performance measurements. You have asked for an explanation why SWBT does not include DSL loops that do not meet industry standards in the maintenance and repair PMs, citing the Chapman Affidavit at p. 29.

This is correct, but for a very good reason. SWBT provides CLECs with the choice of deploying their DSL technologies in a manner that does not comply with industry standards. In many cases, this means the CLEC is attempting to reach customers beyond the recommended distance for the spectrum management class. The PMs relating to maintenance and repair were not designed to capture trouble related to whether or not the loop meets industry standards for DSL. Accordingly, they do not differentiate between trouble related to a DSL loop that does not meet industry standards, and other trouble on the line unrelated to whether the DSL loop meets industry standards.

Although the CLEC may be able to provision their service over a loop outside the industry standard; in many cases, the CLEC is unable to provide the level of service desired because of the loop's length or condition. For example, the industry standard may state that a particular spectrum management class (PSD) can be deployed over loops up to 7,000 feet. The CLEC, however, may choose to attempt to offer service to an end user served by an 11,000 foot loop. SWBT does not prevent the CLEC from attempting to provide this service. Yet, in many cases, the CLEC will not be able to achieve the level of service desired, because the facilities serving the end user do not meet the parameters specified by the industry for the CLEC's chosen spectrum management class. Consequently, this results in a high number of trouble tickets for non-standard loops. Since these difficulties are not caused by an failure on SWBT's part but by the CLEC's business decision to attempt to provide DSL service in a manner outside that recommended by the industry standards, the volumes of trouble tickets associated with the non-standard deployment of DSL should not be held against SWBT in the calculation of performance measures.

3. PMs 5, 10.1 and 11.1 You asked whether these measurements capture FOCs and rejects for DSL, since they are not broken down for DSL.

The business rule for FOC was developed prior to August 1999, and did not contemplate DSL. For IDSL, CLECs purchase a Basic Rate Interface (BRI) loop, for which the FOCs are included in the PM 5 UNE Loop category (1-50). Rejects on DSL are included in PM 10 and 11 for those LSRs submitted electronically.

4. PM 57-01 You have asked if SWBT has implemented the change to this PM ordered by the Texas PUC.

The change in start and stop times for this measurement were implemented on January 1, 1999, and will be reflected in SWBT's reporting of January's performance results. The Texas PUC requested that SWBT begin to measure the time it takes to provide loop make-up information when it receives an accurate and complete Local Service Request, and end the measurement when the loop make-up information is sent back to the CLEC.

EXHIBIT 4

**Letter from Paul A. Crotty, Group
President, Bell Atlantic - New York,
to the Honorable Maureen O.
Helmer, Chairman, New York State
Public Service Commission
(Feb. 4, 2000).**

Bell Atlantic - New York
1095 Avenue of the Americas
Room 4143
New York, NY 10036
212 395-1078 Fax 212 597-2560

Paul A. Crotty
Group President
New York/Connecticut



February 4, 2000

Hon. Maureen O. Helmer
Chairman
New York State Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350

Dear Chairman Helmer:

I want to provide you with a detailed update of the status of the OSS issues now being resolved under the guidance of the Department of Public Service staff. These issues are commanding the full attention of Bell Atlantic-New York and its outside vendors. Our aim is to employ whatever near term solutions are necessary to ensure that our wholesale customers continue their successful mass marketing efforts and at the same time eliminate the root causes of the current issues. I am pleased to report that progress has been made, and that we are working closely with our wholesale customers to meet their needs.

I also want to assure you that BA-NY will ensure that its reported metrics and market adjustments for January (and going forward if necessary) include the impact of the issues discussed below. In addition, BA-NY recognizes that the Amended Performance Assurance Plan permits the Public Service Commission to reallocate market adjustment funds and would not object to such a reallocation related to the issues discussed here.

Status Notifiers

The recent requests for expedited dispute resolution that are now under resolution deal principally with missing acknowledgement, completion and confirmation notifiers that inform our wholesale customers of the status of their orders. These status messages are important and Bell Atlantic recognizes its obligation to provide them. Their absence, however, does not mean that an order failed to generate the appropriate service change. Our data shows that most of the orders related to the affected status messages are and have been proceeding through the provisioning and billing completion steps. Indeed, BA-NY has processed over 250,000 local service requests in January alone.

Acknowledgements

Acknowledgements are sent to our wholesale customers to confirm receipt of an EDI order. The vast majority of the missing status notices reported has been acknowledgements not properly returned by the BA-NY side of the interface. These acknowledgement concerns have been traced to a third-party product, ECXpert, which generates the acknowledgements.

These issues have been escalated to the highest levels within the vendor, which has responded with on-site technical support and has made a number of recommendations. We have implemented a number these recommendations and have seen a dramatic improvement in acknowledgement receipt by one of our major wholesale customers. The vendor continues to investigate the root cause of the software problem.

In addition, beginning on January 17, BA-NY implemented processes and procedures to ensure that – until such time as the vendor fixes its software – our wholesale customers will receive daily information confirming receipt of the order they have sent us. The information is sent by noon each day for the previous day's activity. On Mondays, the information sent includes the activity for the previous Friday, Saturday and Sunday. We are customizing the form of this information based on feedback from our customers. We also are monitoring the EDI processing itself on an hourly basis (on a 7x24 basis) to ensure that orders that are affected by the vendor software are placed in the order processing flow.

We are also taking other steps that we believe will improve the performance of the vendor product. By this weekend, we will implement a new load-balancing arrangement for one wholesale customer, which will substantially increase overall hardware capacity. We are also investigating the existing FTP connectivity with another wholesale customer to eliminate this as a possible source of trouble.

Confirmations and Completions

Confirmations inform our wholesale customers that a particular order is ready for provisioning and the date on which it will be provisioned. There are two types of completion notices. One indicates that an order has been provisioned; the other indicates that billing records changes associated with a provisioned order have been completed. As noted above, in the majority of instances the orders associated with the affected notifiers have in fact gone through the associated processing steps.

As with the acknowledgement issue, we are approaching this issue on two parallel paths. First, beginning on January 27, we began a daily file comparison process to ensure that our wholesale customers in fact receive the confirmations and completions sent by BA-NY. As with acknowledgements, the information is sent by noon each day for the previous day's activity. On Mondays, the information sent includes the activity for the previous Friday, Saturday and Sunday. This will ensure that any missing confirmations or completions are promptly resent. We are customizing the form of this information based on feedback from our customers. Second, a special team is

performing an extensive, end-to-end root cause analysis to resolve any other issues affecting confirmations and completions.

Status Notifier Recovery

We believe that the corrective actions and procedures we have put in place will ensure that our wholesale customers receive timely status notification, and that all orders sent to us are properly received and processed. In addition to these steps, BA-NY has committed to recover and return past missing status notifiers to our wholesale customers. This effort has – with the constructive input and cooperation of our wholesale customers – been differentiated depending on the type and vintage of the notifier. The bulk of this effort is directed to confirmations and completions (since most of the affected orders have proceeded to further stages of provisioning, we and the affected wholesale customers agree that returning an acknowledgement at this stage is not useful).

For December and earlier orders, we are returning basic information that enables our wholesale customers to update their records to show order status as either confirmed, provisioning-completed or billing-completed (the overwhelming majority of these orders have been completed through provisioning and billing). One major wholesale customer has approved the test file that will be used for these purposes, and another has approved the specifications for the file. This recovery process has begun. we are committed to completing this recovery process by February 15 and we believe we have the resources in place to do so.

For missing notifiers in January, we will provide information equivalent to that in the original notifier. We expect to complete this effort by February 18.

CORBA

CORBA is a new interface jointly developed by BA-NY and one wholesale customer and used by that customer for pre-order transactions. CORBA outages over the past few months have had a number of different causes. Late last year, we experienced issues with the CORBA software and the configuration, as well as a number of issues traced to our wholesale customer's systems. Those issues were addressed last year, except for one root-cause fix that was completed after the close of the Y2K moratorium. We believe that the changes made by BA-NY and the wholesale customer late last year had stabilized the CORBA environment by the end of December. The reported CORBA outages on January 18 were related to CORBA itself, and a software fix is scheduled for February 19. The outage on January 21 was related to a hardware failure in another system. This hardware failure was addressed and the affected system was restored by 8 a.m. We continue to monitor the availability of these systems to minimize the effects of hardware crashes.

Suspensions for Non-Payment

BA-NY has been able to identify a few hundred instances (out of the nearly 400,000 UNE-Ps now in service) in which a retail customer has been suspended for non-payment nearly contemporaneously with that customer's migration to a CLEC.

Although this problem appears to affect only a very small proportion of migrating customers, BA-NY is attempting to accelerate a software fix that is currently targeted for June. In addition, when these situations are identified, BA-NY restores service as quickly as possible, and is establishing a team focussed on and trained for rapid restoration in these situations.

Very truly yours,


Paul A. Crotty

cc: Paul Lacouture
Virginia Ruesterholz
Randal Milch

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